

<div>CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795</div> <div>STAFF REPORT</div>	Hearing Date/Agenda Number P.C. January 23, 2002
	File Number SF 01-04-025
	Application Type Appeal of a Single-Family House Permit Denial
	Council District 6
	Planning Area Central
	Assessor's Parcel Number(s) 261-22-059

PROJECT DESCRIPTION	Completed by: Britta Buys	
Location: 1671 Shasta Avenue		
Gross Acreage: 0.17	Net Acreage: 0.17	Net Density: n/a
Existing Zoning: R-1-8 Residence	Existing Use: Single-family detached residence	
Proposed Zoning: No Change	Proposed Use:	

GENERAL PLAN	Completed by: BB
Land Use/Transportation Diagram Designation Medium Low Density Residential (8.0 DU/AC)	Project Conformance: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING	Completed by: BB
North: Single-family detached	R-1-8 Residence
East: Single-family detached	R-1-8 Residence
South: Single-family detached	R-1-8 Residence
West: Single-family detached	R-1-8 Residence

ENVIRONMENTAL STATUS	Completed by: BB
<input type="checkbox"/> Environmental Impact Report <input type="checkbox"/> Negative Declaration circulated on <input type="checkbox"/> Negative Declaration adopted on	<input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete

FILE HISTORY	Completed by: BB
Annexation Title: College Park/Burbank Sunol	Date: 12/8/25

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
<input type="checkbox"/> Approval <input type="checkbox"/> Approval with Conditions <input type="checkbox"/> Denial <input checked="" type="checkbox"/> Uphold Director's Decision	Date: _____	Approved by: _____ <input checked="" type="checkbox"/> Action <input type="checkbox"/> Recommendation

APPLICANT/ OWNER/DEVELOPER
Rocco A. and Barbara L. Rotondo 1671 Shasta Avenue San José, CA 95128

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: BB

Department of Public Works

None Received

Other Departments and Agencies

None Received

GENERAL CORRESPONDENCE

See appeal letter received from Stephen K. Cougill, counsel for Rocco and Barbara Rotondo dated December 6, 2001. Letter received from Stephen Flamm, dated October 23, 2001. Letter received from Rocco Rotondo dated November 7, 2001.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicants, Rocco and Barbara Rotondo, are appealing the Planning Director's decision to deny a Single-Family House Permit (File No. SF 01-04-025) to allow a 1,930 square-foot first and second story addition to an existing 2,242 square-foot single-family detached residence on a 7,728 square-foot lot in the R-1-8 Residence Zoning District. Pursuant to Section 20.100.1030 of Title 20 of the Municipal Code, a Single-Family House Permit for new homes is required for the construction of a new single-family residence if the Floor Area Ratio (F.A.R.) is 0.45 or greater. The F.A.R. of the proposed house is 0.51.

The subject site is located at 1671 Shasta Avenue and is developed with a one-story, single-family detached residence. Single-family detached residences surround the property. The project site is located in a neighborhood of predominately small-scale, single-family detached residences that were built in the early 1900's in a variety of architectural styles including Bungalow, Spanish, Monterey, and Minimal Traditional.

On April 24, 2001, the applicant filed the subject Single Family House Permit application. The Director of Planning denied the application on November 28, 2001, based on the facts and findings included in the attached Permit. On December 6, 2001, the applicant filed a Notice of Permit Appeal of the Director's decision based on arguments that the proposed house conforms to the *Single Family Design Guidelines* and is compatible with the neighborhood. These issues are addressed in the analysis section below.

PUBLIC OUTREACH

Notices of the Planning Director's and Planning Commission hearings were distributed to the owners and occupants of all properties located within 300 feet of the project site. Staff has been available to discuss the project with interested members of the public.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from further environmental review under the provisions of the California Environmental Quality Act.

GENERAL PLAN CONFORMANCE

The existing single-family residential use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8.0 DU/AC).

ANALYSIS

Following is a response to each of the issues raised in the applicant's appeal (see attached letter).

- 1) *The draft permit denial should be reversed in that the first and second story addition do not result in a Floor Area Ratio (F.A.R.) of 0.54 as defined under San José Municipal Code Section 20.100.1020 and a permit is not required under Section 20.100.130 of the San José Municipal Code.*

Staff Response: As defined by Section 20.100.1020, the Floor Area Ratio (F.A.R.) is the ratio of the floor area of a house (including the sum of all floors) to the area of the lot on which it is located. The F.A.R. does not include garages, basements or accessory structures. The Single-Family House Permit application originally submitted by the applicant identified a proposed F.A.R. of 0.58 based on a 2,092 square-foot addition, a total floor area of 4,334 and a lot area of 7,728 square feet. Revised plans submitted for the project did not provide the F.A.R.; therefore, staff calculated the F.A.R. based on the proposed total of addition of 1,930 square feet, which resulted in a 0.54 F.A.R. Based on information subsequently provided by the applicant, staff has calculated a revised floor area addition of 1,704 square feet, a total floor area of 3,946 square feet and a F.A.R. of 0.51. Based on Section 20.100.1030, a new single family house that results in a floor area ratio of 0.45 or greater requires a Single Family House Permit.

- 2) *The single family residence is aesthetically compatible with the architectural styles in the surrounding neighbors pursuant to accepted architectural standards and within the Single Family Residential Design Guidelines, approved by the City Council of San José on December 14, 1999.*

Staff Response: The *Single-Family Design Guidelines* (SFDG) were adopted by the City Council to “help maintain the high quality of San José’s neighborhoods by providing guidance for the design of new houses, additions and/or remodels in existing neighborhoods.” The *SFDG* provide guidance as to how to ensure that a new or expanded house fits into the pattern of the existing neighborhood. In regard to architectural style, the *SFDG* specify that the architectural style should conform to one of the following:

- Replication of a style commonly found in the near neighborhood;
- Use of an architectural style from the same era as styles commonly represented in the neighborhood, or
- Use of a contemporary style that employs building scale, massing, roof lines, materials and building orientations that are commonly found in the neighborhood.

The guidelines further specify that once a style is selected, the design elements and materials should be consistent with that style. In general, overall style, siding and roof materials, roof lines and slopes, window sizes, decorative features, and other elements should be stylistically consistent.

Although the block on which this property is located includes a variety of traditional architectural styles, the applicant has not been entirely successful in achieving neighborhood compatibility through the menu of techniques identified above. The applicant has struggled to define the style of the proposed house, first calling it Mediterranean or Spanish and now referring to it as Builder Contemporary. Staff believes that this struggle has been largely due to the fact that the proposed residence does not effectively achieve a clearly recognizable style. It includes a jumble of volumes and roof forms that are not well integrated and that do not reflect a specific style. Builder Contemporary is the most loosely defined style identified in the *Guidelines* and may have been selected for this reason. The *SFDG*, however, specify that if the applicant selects a contemporary style in a neighborhood of traditional styles, compatibility can be achieved by employing building scale, massing, roof lines, materials and building orientations that are commonly found in the neighborhood. The design of this proposed residence does not successfully employ these techniques to make the proposed house fit into the existing pattern of the neighborhood. Staff believes that the proposed building profile would be out of place along the existing streetscape.

- 3) *The project site is not in a predominately small-scale homes, in fact, with a 300 foot radius of the home, 15 out of 25 homes are larger two-story homes or a 60% ratio. The scale, mass, and setback of the second story are not out of proportion to the adjacent homes or in the neighborhood.*

Staff Response: Staff is concerned that the overall scale and massing of the proposed addition is not compatible with the established block pattern. A neighborhood profile prepared from County Assessor data for Shasta Avenue between Martin and Dana Avenues (see attached) indicates that the predominant block pattern is single story (33 single-story out of a total of 41) and relatively small scale (average floor area is 2,003 square feet). Generally, the existing two-story houses are designed in a manner that reduces their perceived scale, i.e. second stories tend to be set back at the rear of the first floors.

The *SFDG* specify a number of techniques to be used to reduce the perceived mass of a two-story house from the street to achieve neighborhood compatibility, including:

- Limiting the building profile of the new house or expanded house to an area generally consistent with the profiles of adjacent houses;
- Significantly limiting the size of the second story relative to the first story, including any addition to the first story; and,
- Significantly increasing the front and/or side setbacks for the entire structure.

The applicant has made some attempt to set back the second floor relative to the first story, but has not employed the *SFDG* techniques sufficiently to achieve compatibility of perceived scale. The use of these techniques is particularly important in this case because the applicant has not adopted an architectural style found in the neighborhood as a means of integrating the house into the existing neighborhood pattern. The combination of a two-story entry and multiple roof lines emphasizes the scale of the house as viewed from the street. The perceived scale of the house is also problematic from the perspective of the adjacent property to the east (right side elevation). Multiple roof forms, poorly integrated architectural elements, and a second story cantilevered over first floor bay windows, results in a façade that looms as a confused mass over the adjacent property. Based on this

analysis, staff concludes that the proposal is not compatible with the surrounding neighborhood and is not in substantial conformance with the *SFDG*.

- 4) *The style of this home is not a confused style, but is an easily recognized style, common, consistent, compatible, and conforming with the adjacent homes and the immediate neighborhood.*

Staff Response: See responses to Comments 2 and 3 above.

- 5) *Finally, pursuant to the Single Family Residential Design Guidelines the Planning Commission after consideration of said guidelines recommended approval on or about October 10, 2001. Without any significant change in the submitted plan then found against appellant. This indicates that said guidelines are so vague, ambiguous and uncertain so as to deny appellants due process under the State and Federal Constitution, due to its arbitrary application based upon a single objection by one homeowner.*

Staff Response: The Planning Commission did not make a recommendation regarding this Permit prior to its denial by the Director of Planning. Prior to the public hearings regarding this proposal, Planning staff expressed concern to the applicant that the proposed house did not conform to the *Single-Family Design Guidelines*. Mr. Rotondo indicated that he believed that the proposal did conform to the *SFDG*, that his neighbors supported the proposal and that the project should be set for hearing for approval. Staff agreed to set the project for hearing to allow surrounding property owners to comment on the proposal to determine if concern regarding the design of the house was limited to staff. Staff placed a recommendation of approval on the agenda so as not to prejudice testimony regarding the project; however staff clearly indicated to Mr. Rotondo that this recommendation could change depending on staff's evaluation of the public testimony. Based on written testimony from Stephen Flamm, a resident of the adjacent single-family house at 1661 Shasta Avenue (see attached letter dated October 23, 2001) and after further negotiation with the applicant regarding the design of the house, staff determined that the proposed expansion was not in substantial conformance with the *SFDG*, was not compatible with the surrounding neighborhood and should be denied. The Director subsequently denied the Permit.

Conclusion

Based on the above analysis, staff concludes that the proposed single-family house addition is not consistent with the letter or the intent of the *Single Family Design Guidelines* and is not compatible with the surrounding neighborhood.

RECOMMENDATION

Planning staff recommends that the Planning Commission uphold the Director's decision to deny the requested Single-Family House Permit, and include the following facts and findings in its Resolution.

1. The site has a designation of Medium Low Density Residential (8.0 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is 0.17 acres in size and is located in the R-1-8 Residence Zoning District. The site is developed with a single-family detached residence.

3. Single-family detached residences surround the site.
4. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
5. The project is a single-family house with a Floor Area Ratio (F.A.R.) of 0.51 as defined in the San José Municipal Code, Section 20.100.1020.
6. A Single-Family House Permit is required, in accordance with Section 20.100.1020 of the San José Municipal Code, because the structure has a F.A.R. greater than 0.45.
7. The new construction is 30 feet or less in height (24½ feet).
8. The new construction is two stories or less.
9. The existing single-family house is not located in a Historic District or Conservation Area.
10. The project does not include demolition of 50 percent or more of the existing exterior walls as defined in San José Municipal Code 20.80.420.
11. The project site is located in a neighborhood of predominately small-scale, single-family detached residences that were built in the early 1900's in a variety of architecture styles including Bungalow, Spanish, Monterey, and Minimal Traditional. While some two-story houses do exist in the neighborhood, including the houses on either side of the subject site, the predominant block pattern is single story (33 single-story out of a total of 41) and relatively small scale (average floor area is 2,003 square feet). Generally, the existing two-story houses are designed in a manner that reduces their perceived scale, i.e. second stories tend to be set back at the rear of the first floors.
12. Any additions or remodels to an existing single family residence must conform to the City of San José's *Single-Family Residential Guidelines* in order for the Single Family House Permit to be granted.
13. The *Single-Family Residential Guidelines* state that the architectural style of the expanded home should be compatible with the architectural styles found in the surrounding neighborhood, and that the size and massing of the additions should be compatible with the general scale and shapes of surrounding houses.
14. The proposed residence does not effectively achieve a clearly recognizable style. It includes a jumble of volumes and roof forms that are not well integrated and that do not reflect a specific style.
15. The combination of a two-story entry and multiple roof lines emphasizes the scale of the house as viewed from the street. The perceived scale of the house is also problematic from the perspective of the adjacent property to the east (right side elevation). Multiple roof forms, poorly integrated architectural elements, and a second story cantilevered over first floor bay windows, results in a facade that looms as a confused mass over the adjacent property.

16. The proposed single-family house addition is not consistent with the letter or the intent of the *Single Family Design Guidelines* and is not compatible with the surrounding neighborhood.
17. The Planning Commission conducted a duly noticed public hearing of the permit appeal in accordance with Section 20.100.1090 of the Municipal Code.

The Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The project is consistent with the General Plan Land Use /Transportation Diagram designation of Medium Density Residential (8-16 DU/AC).
2. The project complies with the applicable provisions of the Zoning Ordinance, Title 20 of the Municipal Code.
3. The proposed project is in compliance with the California Environmental Quality Act (CEQA).
4. The proposed project is not in conformance with the *Single-Family Design Guidelines*.